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Date: February 25, 2010 Name: Edward Machado, Reg. No. 58,372 Signature: /Edward Machado/

Our Case No. 10808/158 (P28768)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Hans-Joachim Barth et al.)
Serial No.: 10/518,880) Examiner: DAVID J GOODWIN
Filing Date: August 08, 2005) Group Art Unit No.: 2818
For: Layer assembly and method) Confirmation No.: 5306
 for producing a layer assembly)

PETITION FOR REFUND UNDER 37 C.F.R §1.26

Mail Stop 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant 37 C.F.R § 1.26, Applicant of this application is petitioning the Director for a refund of fees associated with the filing of a petition for a three (3) month extension of time to enter a Request for Continued Examination (RCE) on January 5, 2010. The reason for the request is as follows:

On July 7, 2009, the Examiner issued a Final Office Action. The Final Office Action set a six-month period for reply. Applicant filed a Notice of Appeal on November 5, 2009 accompanied by a one (1) month extension of time. On December 22, 2009, the Examiner issued an Advisory Action setting a time for reply to six (6) months from the mailing of the Final Office Action, or January 7, 2010. On

January 5, 2010, Applicant submitted a Request for Continued Examination (RCE) and, out of an abundance of caution, accompanied the RCE with a three (3) month extension of time.

Applicant believes that the extension of time that accompanied the RCE was not necessary because the RCE was filed within two (2) months of the filing of the Notice of Appeal. Accordingly, Applicant respectfully requests the Director to credit Deposit Account No. 23-1925 with a refund for the three (3) month extension of time, or \$1,100. Should there be any questions, the Office is invited to contact the undersigned attorney.

Respectfully submitted,

/Edward Machado/
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February 25, 2010
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